



RECEIVED

AUG 30 2000

Attorney Docket: 210/181-PCT

OFFICE OF PETITIONS

## DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the

invention entitled **FORMULATIONS AND METHODS FOR REDUCING SKIN IRRITATION**

the specification of which

(Check One): ☐ is attached hereto.  
☒ was filed on December 21, 1995 as  
Application Serial No. PCT/US95/16990  
and was amended on (if applicable) \_\_\_\_\_

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 printed on the reverse side of this Declaration. I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Application No.	Country	Date of Filing	Priority Claimed	
			Yes	No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

Application No.	Date of Filing	Status-Patented, Pending or Abandoned
08/362,101	December 21, 1994	Pending
PCT/US95/16990	December 21, 1995	Pending

# APPLICABLE STATUTES & RULES

## 37 CFR 1.56: DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by ss 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the work with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

## 35 U.S.C. 102: CONDITIONS FOR PATENTABILITY; NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless--

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

## 35 U.S.C. 103: CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

## 35 U.S.C. 119: BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY; RIGHT OF PRIORITY (Applicable Portion)

An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for a patent for an invention which has been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country; or which had been in public use or on sale in this country more than one year prior to such filing.

## 35 U.S.C. 120: BENEFIT OF EARLIER FILING DATE IN THE UNITED STATES

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, by the same invention shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

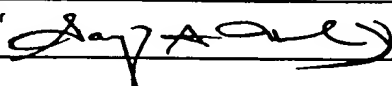
## 35 U.S.C. 112: SPECIFICATION (Applicable Portion)

The Specification shall contain a written description of the invention, and of the making and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctive claiming the subject matter which the applicant regards as his invention.

201	FULL NAME OF INVENTOR	FIRST Name GARY	Middle Initial(s) S.	LAST Name HAHN	
	RESIDENCE & CITIZENSHIP	City Cardiff by the Sea	State or Foreign Country California CA	Country of Citizenship U.S.A.	
	POST OFFICE ADDRESS	Street Address 2371 Lagoon View Drive	City Cardiff by the Sea	State or Ctry CA	Zip Code 92007

I further declare that all statements made herein of my own knowledge are true and that all statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 201	


202	FULL NAME OF INVENTOR	FIRST Name DAVID	Middle Initial(s) O.	LAST Name THUESON	
	RESIDENCE & CITIZENSHIP	City Poway	State or Foreign Country California	Country of Citizenship U.S.A.	
	POST OFFICE ADDRESS	Street Address 12740 Boxwood Court	City Poway	State or Ctry CA	Zip Code 92064

I further declare that all statements made herein of my own knowledge are true and that all statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 202	


201	FULL NAME OF INVENTOR	FIRST Name GARY	Middle Initial(s) S.	LAST Name HAHN	
	RESIDENCE & CITIZENSHIP	City Cardiff by the Sea	State or Foreign Country California	Country of Citizenship U.S.A.	
	POST OFFICE ADDRESS	Street Address 2371 Lagoon View Drive	City Cardiff by the Sea	State or Ctry CA	Zip Code 92007

I further declare that all statements made herein of my own knowledge are true and that all statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 201


202	FULL NAME OF INVENTOR	FIRST Name DAVID	Middle Initial(s) O.	LAST Name THUESON	
	RESIDENCE & CITIZENSHIP	City Poway	State or Foreign Country California CA	Country of Citizenship U.S.A.	
	POST OFFICE ADDRESS	Street Address 12740 Boxwood Court	City Poway	State or Ctry CA	Zip Code 92064

I further declare that all statements made herein of my own knowledge are true and that all statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 202	<i>David O. Thueson</i>
